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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,138	03/04/2002	Dieter Hoffmeier	13924NP	9513

293 7590 02/17/2004
DOWELL & DOWELL PC
SUITE 309
1215 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

EXAMINER

GRAY, MICHAEL KUHN

ART UNIT PAPER NUMBER

3746

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,138

Applicant(s)

HOFFMEIER, DIETER

Examiner

Michael K. GRAY

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12-3-03
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☒ Claim(s) 1 and 3-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12-3-03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The replacement drawings filed on December 3, 2003 are objected to in that there are two elements indicated by the numeral "1.7". The motor is properly indicated by the numeral "1.7". The housing should be indicated by the numeral "1.1" and not by the numeral "1.7".

Further, the drawings do not show the filling limit claimed in claim 1.

Still further, the drawings do not show the shut-off mechanism of claim 1 that shuts off the motor automatically, e.g., a sensor.

Claim Objections

Claim 1 is objected to in that a "filling limit" has not been demonstrated with a corresponding reference numeral described in the specification. The "shut-off mechanism" should be shown in the drawings and described in the specification with a corresponding reference numeral. Claims 2-7 are objected to as being dependent from claim 1.

In claim 4, the word "elemnt" should be spelled as "element".

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not understood how to make and use the ball valve as claimed in claim 2.

Allowable Subject Matter

Claim 1 would appear to have allowable subject matter as a result of the claim language which indicates a vacuum valve is closed during a suction process due to the negative pressure present in the receiving container and opened when the motor is switched off automatically by the shut-off mechanism. In the Neese et al. '319 reference the discharge valve 21 is operated manually. (col. 3, line 21).

Claims 2-7 which depend from claim 1 would be allowable if the above-noted objections to claim 1 were corrected and the 112, first paragraph, rejection of claim 2 was corrected.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Gray whose telephone number is (703) 308-6196.

If the examiner does not answer the phone, a message will be provided as to when he will be in the Office. A message may be left on the examiner's voice mail.

The examiner's supervisor Justine Yu can be reached at (703) 308-2675.

The Official Fax number is (703) 872-9306.

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Any inquiry of a general nature should be directed to the receptionist whose telephone number is (703) 308-0861.

/Michael K. Gray ^{mic}
Patent Examiner
Art Unit 3746


JUSTINE YU
SUPERVISORY PATENT EXAMINER

2/16/04